



FISCAL MEMORANDUM

SB 12 - HB 433

March 8, 2023

SUMMARY OF BILL AS AMENDED (005095): Expands the definition of “eligible student” to include students in Hamilton, Madison, and Knox counties in the Education Savings Account (ESA) Pilot Program.

FISCAL IMPACT OF BILL AS AMENDED:

NOT SIGNIFICANT

Assumptions for the bill as amended:

- Public Chapter 506 of the 111th General Assembly was signed into law May 24, 2019, and created the ESA Pilot Program.
- On February 6, 2020, Metro Nashville and Shelby County sued the State, contending that Tennessee’s ESA Pilot Program violated sections of the Tennessee Constitution.
- On May 4, 2020, the Chancery Court of Davidson County ruled that the program violated the Home Rule provision of the state constitution and entered an order preventing the State from advancing the program.
- On July 13, 2022, The Chancery Court of Davidson County lifted the injunction on the ESA allowing DOE to resume operation of the program, making the 2022-23 school year the first year of the program.
- ESA eligibility pursuant to Tenn. Code Ann. § 49-6-2602(3)(C) requires a student to be zoned to attend a school in a local education agency (LEA) that has at least 10 or more schools that were identified as priority schools in 2015 and 2018 and were among the bottom 10 percent of schools as identified by the Department of Education (DOE in 2017.
- Students must also be members of a family with an annual household income that does not exceed twice the federal income eligibility guidelines for free lunch.
- DOE currently operates the ESA program in two geographic LEAs: Metro Nashville Public Schools (Davidson County) and Memphis-Shelby County Schools.
- The proposed legislation redefines student eligibility by reducing the number of schools in an LEA identified as priority schools from ten to three and requiring an LEA to have had three or more schools among the bottom 10 percent of schools in 2017.
- The proposed ESA eligibility criteria adds Hamilton, Madison, and Knox counties as additional LEA whose students are eligible to participate in the program.
- Expanding ESA eligibility will make additional students eligible for the ESA program if they meet other qualifying criteria in statute.

- Public Chapter 506 of the 111th General Assembly establishes annual enrollment limits for participation in the Tennessee ESA Pilot Program as follows:
 - 5,000 students in the first year;
 - 7,500 students in the second year;
 - 10,000 students in the third year;
 - 12,500 students in the fourth year; and
 - 15,000 students in the fifth year.
- Based on the number of eligible students and the participation rate, it is assumed that the yearly cap will be reached every year under current law.
- Because the enrollment limit is expected to be met every year under current law, expanding the number of eligible students will not affect the total number of participants in the Tennessee ESA Pilot Program.
- The program has already been funded at certain enrollment levels in statute and the proposed legislation will not require any additional state expenditures.
- Public Chapter 506 of the 111th General Assembly prevents any LEA from losing the revenue generated by a student in the ESA Pilot Program for the first three years. Thus, there will be no fiscal impact for LEAs in school years 2023-24 and 2024-25, the second and third years of the program.
- Beginning in the 2025-26 school year, the proposed legislation would decrease the local revenue for impacted LEAs. In addition, the LEAs will not incur the cost of educating children who leave the LEAs. Under current law, these decreases would occur in Shelby and Davidson Counties; this legislation will shift some of that impact to Hamilton, Madison, and Knox counties.
- Due to the statewide enrollment limits anticipated to be reached under current law, the total decreases in local revenue and local expenditures statewide beginning in FY25-26 will not significantly change with the addition of Hamilton, Madison, and Knox counties.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Krista Lee Carsner, Executive Director

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